



PROCEDURAL DIGEST

Legislative Assembly

FIFTY-SIXTH PARLIAMENT, FIRST SESSION

NO. 1/2015: 5 – 14 MAY 2015

May 2015				
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11	12	13	14	15

This document provides a summary of significant procedural events and precedents in the Legislative Assembly. It is produced at the end of each sitting period. Where applicable the relevant Standing Orders are noted.

OPENING OF THE 56TH PARLIAMENT

Attendance in the Legislative Council Chamber

Following the General Election on 28 March 2015, the first session of the 56th Parliament of NSW was opened by the Governor, His Excellency General The Honourable David Hurley AC DCS (Retd) on 5 May 2015.

Members-elect of the Legislative Assembly were requested to attend the Legislative Council Chamber to hear the Commission for the Opening of Parliament, and again, later in the day to hear the Governor's Opening Speech to both Houses.

Votes and Proceedings: 5/5/2015, pp. 1-4, pp. 10-21.

Hansard: 5/5/2015, p. 19, p. 25.

Standing Orders 2 and 3.

Pledge of loyalty or oath or affirmation of allegiance

After having returned from the Legislative Council Chamber to hear the Commission for the Opening of Parliament, the Clerk informed the House that the Governor had commissioned the Premier, the Hon. Mike Baird MP, the Deputy Premier, the Hon. Troy Grant MP, and the Leader of the House, the Hon. Anthony Roberts MP, to administer the pledge of loyalty or oath or affirmation of allegiance to the other Members of the Legislative Assembly.

Votes and Proceedings: 5/5/2015, pp. 4-5.

Hansard: 5/5/2015, p. 19.

Standing Order 2.

(Procedural note: Members must take or make the pledge of loyalty or oath or affirmation of allegiance at the first available opportunity because they are not permitted to sit or vote in the House until they have been sworn in. This requirement is specified by section 12 of the [Constitution Act 1902](#).)

Prior to 2006 Members only had the option of taking or making an oath or affirmation of allegiance to the Sovereign and the Sovereign's heirs and successors. In 2006 the *Constitution Amendment (Pledge of Loyalty) Bill* amended the *Constitution Act* to replace the oath or affirmation of allegiance with a pledge of loyalty "to Australia and the people of NSW".

In 2012 a Private Members' Bill from the Hon. Revd Fred Nile MLC, the *Constitution Amendment (Restoration of Oaths of Allegiance) Bill*, amended the *Constitution Act* to restore the oath or affirmation of allegiance as an alternative to taking the pledge of loyalty. In effect, this meant that for the first time Members could either take or make the oath or affirmation of allegiance or the pledge of loyalty during the opening of the 56th Parliament.)

Election of the Speaker, Deputy Speaker and Assistant Speaker

Immediately after Members were sworn in the Hon. Shelley Hancock MP was re-elected unopposed as Speaker, the Hon. Thomas George was re-elected unopposed as Deputy Speaker, and Mr Andrew Fraser MP was re-elected unopposed as Assistant Speaker.

Votes and Proceedings: 5/5/2015, pp. 5-6.

Hansard: 5/5/2015, pp. 20-22.

Standing Orders 10, 11, 12, 13 and 14.

Law of Evidence Bill

Following the election of the Speaker, Deputy Speaker and Assistant Speaker, the Premier introduced the *Law of Evidence Bill*.

In the NSW Legislative Assembly it is customary for the *Law of Evidence Bill* to be introduced early on the first sitting day of a new Parliament, though the bill does not appear on the business paper and does not pass through any subsequent stage.

Votes and Proceedings: 5/5/2015, p. 6.

Hansard: 5/5/2015, p. 22.

Standing Order 3.

(Procedural note: The *Law of Evidence Bill* is introduced on the first sitting day of a new session because Standing Order 3(5) provides that "...the House shall conduct some business of a formal nature without notice, in assertion of its rights" before the Governor's speech or commission is reported.

This formal business is a traditional practice among many Westminster parliaments and is symbolic of the right of a House of Parliament to deliberate and conduct business independently from the Crown and the Executive Government.¹

Since 1901 the NSW Legislative Assembly has used the *Law of Evidence Bill* for this symbolic procedure, however, there is no requirement for the formal business to be that particular bill, or a bill at all.)

¹ B.C. Wright, [House of Representatives Practice \(6th ed.\)](#) (2012), Chapter 7, p. 220.

Governor's Opening Speech and Address in Reply

Shortly after the House resumed at 2.30 pm Members of the Legislative Assembly assembled in the Legislative Council Chamber to hear an Opening Speech to both Houses by the Governor. Afterwards Members of the Assembly returned to the Chamber and the Speaker laid a copy of the Opening Speech on the Table and ordered it to be recorded in the Votes and Proceedings.

Later in the day Mr Matt Kean MP moved that an Address in Reply to the Governor's Opening Speech be adopted by the House. Mr Andrew Gee MP seconded the motion and the debate was adjourned, with resumption of the debate standing as an order of the day for the next sitting day.

Votes and Proceedings: 5/5/2015, pp. 10-21, p. 56.

Hansard: 5/5/2015, p. 25, pp. 45-50.

Standing Orders 4, 5, 6, 7 and 83.

(Procedural note: The content of the Governor's Opening Speech is couched in general terms and usually summarises the Government's achievements and outlines proposed legislation for the upcoming session. The speech is prepared on advice from the Department of Premier and Cabinet.

The Address in Reply is a motion that is moved and seconded by Government Members and is addressed to the Governor in response to the Governor's Opening Speech. Because the Governor's speech outlines the Government's proposed legislative program for the session, debate on the Address in Reply motion is similarly wide-ranging and may occur over many sitting days spread over a number of weeks and, at times, months.

Because any Member may speak on the Address in Reply debate for up to 20 minutes, and because there is wide scope as to what Members can speak on, contributing to the Address in Reply debate gives non-Government Members and Government backbench Members an opportunity to speak at length about issues that concern them and their constituents. For more information on the Address in Reply debate, including its historical significance as a test of confidence in the Government, see Chapter 4 of [NSW Legislative Assembly Practice, Procedure and Privilege.](#))

ADOPTION OF SESSIONAL ORDERS

On 5 May 2015, the House resolved to adopt new Sessional Orders. The Sessional Orders had the same terms as those that were in operation at the end of the previous Parliament, except for a minor change to the Sessional Order relating to inaugural and valedictory speeches.

Votes and Proceedings: 5/5/2015, pp. 35-53.

Hansard 5/5/2015, pp. 30-43.

Standing Order 364.

(Procedural note: Standing Order 364 allows the House to adopt Sessional Orders which have the force of, and may replace or modify, Standing Orders. Sessional Orders are made by a resolution of the House and do not require approval by the Governor.

Sessional Orders only have effect for the duration of a session and therefore need to be re-adopted at the commencement of each new session.)

MEMBERS

Code of Conduct for Members

On the first sitting day of the new Parliament the House resolved to adopt a Code of Conduct for Members, for the purposes of section 9 of the *Independent Commission Against Corruption Act 1988*.

Votes and Proceeding: 5/5/2015, p. 53-5.

Hansard 5/5/2015, pp. 60-71.

(Procedural note: For the full text of the Code of Conduct for Members, go [here](#).)

Inaugural speeches

On the first sitting day new Members Ms Jenny Leong MP (Newtown), Ms Eleni Petinos MP (Miranda) and Mr Damien Tudehope MP (Epping) made their inaugural speeches.

On Wednesday 6 May 2015 new Members Mr Luke Foley MP (Auburn), formerly the Leader of the Opposition in the Legislative Council, Ms Julia Finn MP (Granville) and Ms Prue Car MP (Londonderry) made their inaugural speeches.

On Thursday 7 May 2015 new Members Mr David Mehan MP (The Entrance), Ms Kathy Smith MP (Gosford), Ms Kate Washington MP (Port Stephens), Mr Alister Henskens MP (Ku-ring-gai) and Mr Mark Taylor MP (Seven Hills) made their inaugural speeches.

On Tuesday 12 May 2015 new Members Ms Jennifer Aitchison MP (Maitland), Mr Chris Minns MP (Kogarah), Mr Greg Warren MP (Campbelltown), Mr Michael Johnsen MP (Upper Hunter), Mr Adam Crouch MP (Terrigal) and Ms Tamara Smith MP (Ballina) made their inaugural speeches.

On Wednesday 13 May 2015 new Members Ms Trish Doyle MP (Blue Mountains), Mr Jihad Dib MP (Lakemba), Mrs Melinda Pavey MP (Oxley), Dr Hugh McDermott MP (Prospect), Mr Anoulack Chanthivong MP (Macquarie Fields) and Ms Jo Haylen MP (Summer Hill) made their inaugural speeches.

On Thursday 14 May 2015 new Members Ms Yasmin Catley MP (Swansea), Mr Edmond Atalla MP (Mount Druitt) and Mr Steven Kamper MP (Rockdale) made their inaugural speeches.

Votes and Proceedings: 5/5/2015, p. 56; 6/5/2015, p. 62, p. 69; 7/5/2015, p. 72, p. 79; 12/5/2015, p. 81, p. 85; 13/5/2015, p. 89, p. 94; 14/5/2014, p. 97.

Hansard 5/5/2015, pp. 60-71; 6/5/2015, pp. 194-5, pp. 241-8; 7/5/2015 pp. 254-65, pp. 310-7; 12/5/2015, pp. 378-89, pp. 413-21, pp. 422-5; 13/5/2015, pp. 517-37, pp. 564-71; 14/5/2015, pp. 634-45.

Standing Order 63.

(Procedural note: A Member's inaugural speech is the first speech they make in the Legislative Assembly regardless of prior parliamentary experience in another House of Parliament. The practice of making inaugural or "maiden" speeches in the Legislative Assembly dates back to the 1860s.

For more information about inaugural speeches, see Chapter 11 of [NSW Legislative Assembly Practice, Procedure and Privilege.](#))

VACANCIES

On 6 May 2015 Members of the Legislative Assembly attended the Legislative Council Chamber for a joint sitting to elect persons to fill the seats in the Legislative Council vacated by the Hon. Penny Sharpe and the Hon. Steven Whan, who both unsuccessfully contested seats for election in the Legislative Assembly, and then to elect a person to fill the seat in the Senate rendered vacant by the resignation of Senator the Hon. John Faulkner.

At the conclusion of the elections the Legislative Assembly Members returned to the Legislative Assembly Chamber and the Speaker reported that Ms Penny Sharpe and Mr Nitin Mookhey had been elected to fill the vacancies in the Legislative Council and Ms Jennifer McAllister had been elected to fill the vacancy in NSW's representation in the Senate of the Commonwealth of Australia.

Votes and Proceedings: 6/5/2015, pp. 63-4.

Hansard 6/5/2015, pp. 199-200.

(Procedural note: In the NSW Parliament casual vacancies in the Legislative Council are filled by a person elected at a joint sitting of both Houses called by the Governor. If the casual vacancy was previously filled by a member of a political party, only another member of that party may be elected to fill the vacancy. This is specified by section 22D of the [Constitution Act 1902](#).

Similarly, in the Commonwealth Senate, section 15 of the [Commonwealth of Australia Constitution Act 1900](#) provides that casual vacancies are filled by an election conducted during a joint sitting of the Parliament (except in Queensland, which has a unicameral Parliament) of the State that the outgoing Senator represented. As for the Legislative Council, Senators elected to fill casual vacancies must be from the same political party as the outgoing Senator. For more information on casual vacancies in the Senate, see Chapter 1 of [Odgers' Australian Senate Practice \(13th ed.\)](#).)

BILLS

On 6 May 2015, the *Courts and Crimes Legislation Amendment Bill 2015* and the *Pesticides Amendment Bill 2015* were introduced in the House.

Earlier versions of both bills, the *Courts and Crimes Legislation Amendment Bill 2014* and the *Pesticides Amendment Bill 2014*, were introduced near the end of the previous Parliament, but lapsed when the Parliament was prorogued on 2 March 2015.

Votes and Proceedings: 6/5/2015, p. 61.

Hansard: 6/5/2015, pp. 182-8.

Standing Order 237.

(Procedural note: Standing Order 237 provides that a bill that has lapsed due to prorogation may be proceeded with in a later session of the same Parliament from the point of interruption.)

SPEAKER'S STATEMENTS

To mark the Centenary of the First World War the Speaker made a statement about the Great War and indicated that she and the President would, each sitting week, continue to make some remarks in relation to World War 1 at that period in time 100 years ago.

Votes and Proceedings: 6/5/2015, p. 64.

Hansard: 6/5/2015, p. 206.

TEMPORARY SPEAKERS

On 7 May 2015 the Speaker nominated Mr Lee Evans MP, Ms Melanie Gibbons MP, Mr Adam Marshall MP, Mr Bruce Notley-Smith MP and Ms Anna Watson MP to act as Temporary Speakers in the absence of the Deputy Speaker and the Assistant Speaker during the current Parliament.

Votes and Proceedings: 7/5/2015, p. 74.

Hansard: 7/5/2015, p. 281.

Standing Order 19.

COMMITTEES

Establishment of new select committee

On 13 May 2015 the House agreed to the appointment of a new joint select committee. The committee is to inquire into and report on companion animal breeding practices in NSW, including proposals to limit the number of animals kept by breeders and the implications of banning the sale of cats and dogs in pet stores.

A message was sent to the Legislative Council advising it of the resolution and requesting that it agree to a similar resolution and name the time and place for the committee's first meeting.

Votes and proceedings: 13/5/2015, pp. 87-9.

Hansard: 13/5/2015, pp. 514-7.

Standing Orders 315, 319 and 320.

(Procedural note: Select committees can be appointed by either House to inquire into a particular matter (including bills) and cease to exist after they have reported.

The Standing Orders of the Legislative Assembly and the Legislative Council state that the House that instigates the establishment of a joint committee cannot nominate the time and place for the committee's first meeting. That task is left to the other House.)